

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

James Earl Richardson,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 4:23-cv-1586-TMC
)	
J. Reuben Long Detention Center,)	ORDER
and Cooks Industries,)	
)	
Defendants.)	
)	
)	

Plaintiff James Earl Richardson, a pretrial detainee proceeding *pro se* and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d), (e) (D.S.C.), this matter was automatically referred to a magistrate judge for all pretrial proceedings. The magistrate judge reviewed the complaint pursuant to 28 U.S.C. §§ 1915, 1915A and issued an order informing Plaintiff that his complaint was subject to summary dismissal and directing him to file an Amended Complaint. (ECF No. 6). The order further advised Plaintiff of his duty to keep the court informed in writing as to any change of his address. *Id.* at 3. Finally, the order warned Plaintiff that if he failed to follow any of the directives therein, his case may be dismissed. *Id.* The order was mailed to the address provided by the Plaintiff (ECF No. 8) and has not been returned as undeliverable. Thus, it is presumed that Plaintiff received the order; however, the court has not received a response from Plaintiff, and the time for compliance has passed.

Now before the court is the magistrate judge's Report and Recommendation ("Report") concluding Plaintiff's lack of response indicates an intent to not prosecute this case and recommending dismissal under Fed. R. Civ. P. 41(b). (ECF No. 12 at 3). Additionally, the

magistrate judge concluded that this action is subject to dismissal for failure to state a claim. *Id.* at 3–4. Accordingly, the magistrate judge recommended that the court dismiss this action without prejudice under Fed. R. Civ. P. 41, or in the alternative, dismiss this action with prejudice under §§ 1915(e) and 1915A and without issuance and service of process. *Id.* at 5.

Plaintiff was advised of his right to file objections to the Report and of the possible consequences for failing to do so. *Id.* at 6. On May 31, 2023, the Report was mailed to Plaintiff at the address he had provided the court. (ECF No. 13). The Report has not been returned to the court as undeliverable. Therefore, Plaintiff is presumed to have received the Report. Nonetheless, Plaintiff has not submitted any objections, and the time for Plaintiff to object to the Report expired some time ago.

The magistrate judge’s recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *Elijah v. Dunbar*, 66 F.4th 454, 459 (4th Cir. 2023) (citing *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). The court is charged with making a de novo determination of those portions of the Report to which a specific objection is made, and the court may accept, reject, modify, in whole or in part, the recommendation of the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). Thus, “[t]o trigger de novo review, an objecting party ‘must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.’” *Elijah*, 66 F.4th at 460 (quoting *United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007)). However, the court need only review for clear error “those portions which are not objected to—including those portions to which only ‘general and conclusory’ objections have been made[.]” *Dunlap v. TM Trucking of the Carolinas, LLC*, 288 F. Supp. 3d 654, 662 (D.S.C. 2017); *see also Elijah*, 66 F.4th at 460 (noting that “[i]f a litigant objects

only generally, the district court reviews the magistrate’s recommendation for clear error only”). Furthermore, in the absence of specific objections to the Report, the court is not required to give any explanation for adopting the magistrate judge’s recommendation. *Greenspan v. Brothers Prop. Corp.*, 103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)).

Having carefully reviewed the Report and the record and, finding no clear error, the court agrees with, and wholly **ADOPTS**, the magistrate judge’s findings and recommendations in the Report (ECF No. 12), which is incorporated herein by reference. For the reasons stated in the Report, the court **DISMISSES** this action with prejudice under §§ 1915(e) and 1915A for failure to state a claim and without issuance and service of process.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
August 3, 2023

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.